



City of Tualatin

www.ci.tualatin.or.us

Approved By Tualatin City Council

Date 10/27/2008

Recording Secretary J. Kirby

TUALATIN CITY COUNCIL WORK SESSION MINUTES OF OCTOBER 13, 2008

PRESENT: Mayor Lou Ogden; Councilors Chris Barhyte, Monique Beikman, Bob Boryska, Jay Harris, Donna Maddux, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Mike McKillip, City Engineer; Doug Rux, Community Development Director; Dan Boss, Operations Director; Kent Barker, Police Chief; Don Hudson, Finance Director; Carina Christensen, Assistant to the City Manager; Colin Cortes, Assistant Planner; Eric Underwood, Development Coordinator, Crystal Reynolds, Community Services Officer; Maureen Smith, Recording Secretary

ABSENT: None

[Unless otherwise noted, MOTION CARRIED indicates all in favor.]

A. CALL TO ORDER

Mayor Ogden called the work session to order at 5:01 p.m.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

1. Fence Standards – Phase II Review

Assistant Planner Cindy Hahn began with a PowerPoint presentation. When the initial fence standards ordinance was passed in July of 2007 there were additional policy questions raised regarding requiring fences along freeway frontages, requiring more stringent vision clearance standards, and whether properties in the Low-Density Residential (RL) and Medium Low Density (RML) Planning Districts be required to meet the minimum requirements of the Fence Standards.

Staff reviewed with Council several policy considerations to Council's satisfaction, such as fencing along I-205 and I-5, vision clearance and area provisions, local and collector streets, vertical height restriction, stop sign rules and discussion points, and minimum material standards and the application of those fence standards. An example of the City of Milwaukie's clear vision areas and fence heights were also reviewed by staff.

Discussion followed on the what was discussed when the initial ordinance was passed in 2007, what the current standard requirements are and what can be done to address how the community will look in the future

Council discussed having staff bring examples of treatments that have been done in other cities, and the aesthetics of both directions. Also discussed were sound walls.

Safety concerns were discussed and Councilor Harris said he wants to be sure the City's current Tualatin Development Code (TDC) meets site distance standards. Councilor Truax said it appears we are looking for a solution to a problem we do not have; there is already somewhat of a process in place. Mayor Ogden said he cannot make that decision from what has been presented tonight. Councilor Truax said there does not appear to be huge issues of site distance problems, etc, and with a complaint-driven process, the system we have in place seems to work satisfactorily, particularly with the City's Community Service Officer (CSO) on board. Councilor Barhyte agreed with Councilor Truax. Councilor Harris suggested going back through the standards again, and make sure the vision clearance is adequate for safety, particularly at intersections.

City Manager Lombos said staff will make sure of all the legal aspects, and that the TDC meets safety standards, etc. and will bring back to Council at a future meeting.

Discussion continued regarding fence standards and material requirements. Ms. Hahn explained what and how a fence would have to be placed and constructed, and whether it would be masonry or some other material. Different fence styles were discussed and whether to apply design standards along frontage. Costs of fencing and having minimum materials standards was also discussed.

Councilor Maddux said she is somewhat uncomfortable regulating at the city level what is an aesthetic choice of the homeowner. Other Councilors said in response to how much it would apply to, could conceivably be a lot. Councilor Barhyte said he does not have a problem with regulating the aesthetic of the wall along an arterial street. Staff said there is enough built in the requirements now to how the fence is supposed to look and would look similar.

City Manager Lombos summarized that there appears to be consensus to not apply standards to single homes in relation to aesthetics. Councilor Maddux said if a homeowner has a fence however, it should be maintained. City Manager Lombos said the City's Development Code already addresses that issue. The question is whether Council wants to get into requiring minimum material standards. City Manager Lombos asked if there was interest by the Council of ramping up the Development Code to require a minimum standard. All Council present said no.

2. *80% Density Rule Discussion*

Community Development Director Doug Rux and Assistant Planner Colin Cortes presented information that Metro's requirement has been lifted on new residential development build that is at least 80% of the maximum number of dwelling units per acre permissible in a residential planning district. Staff is proposing to change the Development Code to reflect that. The City will still be held to the overall density target.

Brief discussion followed. Councilor Maddux asked and Mr. Rux replied that the consequences of rescinding the requirement and what could happen to future funding, are unknown at this point. Some other surrounding have not rescinded the 80% rule. However, Mr. Rux said in his opinion there is no reason not to lift this requirement. All Council present agreed.

3. *Code Enforcement Policy Discussion*

Police Chief Kent Barker presented a PowerPoint update on code enforcement activities, the approach currently taken by staff, and if changes should be made to that approach. Chief Barker introduced Community Services Officer (CSO) Crystal Reynolds and said she has been on board for a year now. The goal for the CSO is to enforce city codes, enhance the livability of the community, strive for voluntary compliance, and also to assist and handle police calls that do not require a sworn officer. Prior to 2008, some code enforcement was done in various City departments, with no specific department that managed complaints. Generally enforcement was "complaint driven". Since the CSO started, there has been over 500 self-initiated calls (separate from Police calls for service).

Chief Barker said the challenges the CSO faces is whether to focus on a particular complaint or be more broad-based, an example being if the CSO responds to an abandoned vehicle complaint and sees other violations while there. PowerPoint photos of various violations throughout the City were displayed and several examples were reviewed of a complaint-driven response and finding other minor violations while responding. Chief Barker said the question is whether the Council is satisfied with the current direction the CSO is taking or to modify.

Council discussed clarification on how enforcement of complaints is currently being done. Further discussion was held on dealing with complaint-driven issues and then proactively addressing other violations. Chief Barker said that is the direction staff would like to proceed with, but have pulled back some on the proactive side to see what types of complaints are actually coming in. The goal is to always get *voluntary* compliance and the CSO has only written five complaints.

Councilor Barhyte questioned the issue of how far to go with self-initiated versus complaint driven, and whether some of the *minor* violations should be addressed differently. Councilor Boryska said he is not sure how best to answer that, but rather to use some common sense.

Councilor Maddux said she agrees, but she does not want to put the CSO in a position of when and how to address minor violations. Councilor Maddux said she would be happy to be part of a work group to clean up areas and address housekeeping issues in the Code and review on a regular basis.

Mayor Ogden said these ordinances were created in the first place because there was a specific problem, and suggested the response be complaint-driven, however address the issue when there are obvious, blatant violations. Being consistent was also mentioned.

City Manager Lombos acknowledged Council's direction, however asked that Council briefly review the issue of signs in the rights-of-way, and whether to address as complaint-driven only. Ms. Lombos said the current Code does not allow for any signs in the rights-of-way, and noted the City cannot enforce based on content.

Political signage was discussed and it was asked and answered about regulation of signage in general and what is allowed. Discussion followed on the various types of signs that are displayed throughout the City and where to draw the line. City Manager Lombos said while the City cannot regulate content, it would be cleaner to not allow any signs in the rights-of-way.

Discussion followed and agreement by all Council present for staff to continue the enforcement of signs and what is currently done. Also, as the CSO comes across areas in the Code that should be modified to pass on to staff.

4. *Entertainment Ordinances Discussion*

City Attorney Brenda Braden presented information on proposed ordinances and that she raised this issue at various legal venues. Oregon is the only state in the union that allows obscenity as free speech. Ms. Braden said there is no authority to regulate an alcohol-free zone. The State makes the decision and she found no ability for the City to override. Ms. Braden mentioned how Portland is addressing the issue. Another proposed ordinance is on prohibiting patrons from paying entertainers directly. Ms. Braden said it would have to be defined, and there are not any cases on point on this. Ms. Braden said there is not much that can be done, and the City would have to come up with Findings to uphold.

Discussion followed. Councilor Maddux said her opinion is the City is in a losing posture and only inviting litigation, and it would be best to work with our local legislators and get a legislative referral. Ms. Braden said there is nothing that has been changed in these types of ordinances since 1987. She has spoken with many attorneys in surrounding cities and received basically the same opinion.

Mayor Ogden said he was doubtful the legislature would take up this issue as it has been before voters a number of times and has not passed. Councilor Beikman said she has formed a community group to do what it takes to get the legislature to address. The Council said the discussion is not over, only for now.

C. CITIZEN COMMENTS

City Manager Lombos said staff has transcribed verbatim portions of the June 23, 2008 work session and meeting minutes, and of the July 14, 2008 work session minutes to be added to the Consent Agenda. Mayor Ogden suggested the June 23, 2008 and July 14, 2008 minutes be removed from the agenda in their entirety and be placed on the next Council agenda.

D. CONSENT AGENDA

None.

E. PUBLIC HEARINGS – Legislative or Other

N/A

F. PUBLIC HEARINGS – Quasi-Judicial

N/A

G. GENERAL BUSINESS

N/A

H. ITEMS REMOVED FROM CONSENT AGENDA

N/A

I. COMMUNICATIONS FROM COUNCILORS

None.

J. EXECUTIVE SESSION

None.

K. ADJOURNMENT

The work session adjourned at 6:59 p.m.

Sherilyn Lombos, City Manager

Recording Secretary





TUALATIN CITY COUNCIL MINUTES OF OCTOBER 13, 2008

PRESENT: Mayor Lou Ogden; Councilors Chris Barhyte, Monique Beikman, Bob Boryska, Jay Harris, Donna Maddux, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Doug Rux, Community Development Director; Mike McKillip, City Engineer; Kent Barker, Police Chief; Dan Boss, Operations Director; and Maureen Smith, Recording Secretary

ABSENT: None.

Mayor Ogden called the meeting to order at 7:05 p.m.

[Unless otherwise noted, MOTION CARRIED indicates all in favor.]

A. CALL TO ORDER

Councilor Maddux led the Pledge of Allegiance.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

1. *Swearing-in of New Police Officer*

Chief Kent Barker gave a brief background and swore-in new Police Officer Tony Villa.

2. *Introduction of New Employees*

City Manager Sherilyn Lombos introduced and gave a brief background on new Library Manager Abigail Elder.

3. *Volunteer Update*

Volunteer Coordinator Victoria Eggleston gave a PowerPoint presentation. The second annual barbecue to honor the City's volunteers was recently held. Over 200 volunteers attended, along with 40 guests, and 15 staff. Ms. Eggleston also recognized the vendors that donated goods to the volunteer barbecue. Ms. Eggleston also mentioned that every business she has talked with wanted to assist the City of Tualatin and recognized the importance of volunteers. If anyone would like to make a difference and get involved, visit the City's website at www.ci.tualatin.or.us.

Mayor Ogden noted the City's astounding volunteer program, how much the community gives of their time, and the amount of volunteer hours logged last year which was the equivalence of 18 full-time positions.

4. *Giant Pumpkin Regatta Preview*

Parks and Recreation Coordinator Carl Switzer gave a brief PowerPoint presentation on the 5th Annual West Coast Giant Pumpkin Regatta. It is a community-wide event and all are invited to attend on Saturday, October 25, 2008 from 10:00 a.m. to 2:00 p.m., rain or shine, at the Lake at Tualatin Commons. Over 2,500 people attended last year and there will be lots to do. The Tualatin Youth Advisory Committee has a

big hand in putting on this event, and this year there will be a "medallion" event. The City has also received national attention on the event.

5. *Presentation of Certificate of Achievement for Excellence in Financial Reporting*
Finance Director Don Hudson and Sapphire Chen, Financial Operations Supervisor, were present and noted it is the 16th year in a row the City has been awarded the Certificate of Achievement in Financial Reporting, which is given by the Government Finance Officers Association (GFOA) to recognize excellence in the City's financial reporting. Many categories are looked at and a lot of work goes into the report. Mr. Hudson acknowledged Supervisor Sapphire Chen's work the past year in stepping up to the plate during a portion of the year there was not a full-time finance director on board, and said he is fortunate to have an outstanding staff.
6. *Tualatin Youth Advisory Committee Presentation*
Members of the Youth Advisory Committee (YAC) were present and gave an update on recent activities. A Tualatin youth summit was held on October 5th, and was an opportunity to learn about concerns that youth have in Tualatin. It was a great event and they will make a formal presentation to Council in November. Other upcoming events include the Haunted House, and the Giant Pumpkin Regatta.
7. *Road Closure Update – City Engineer Mike McKillip*
City Engineer McKillip said additional TriMet Commuter Rail construction work needs to be done to adjust the tracks at Tualatin Road, near Community Park, and will be closed from the evening of October 24 through the weekend, reopening at 5:00 a.m. Monday, October 27. If it is able to open sooner it will be. Detour signs will be going up any day.
8. *Tualatin Heritage Center Patio Project Update – Tualatin Historical Society*
Norman Parker,

Members of the Tualatin Historical Society and Heritage Center staff were present and gave a brief background and PowerPoint presentation on the Heritage Center project over the years. It has been successful and approximately 25,000 people have come through the doors since opening a little over two years ago. The patio project was the recently finished and it was done with all private funding.

C. CITIZEN COMMENTS

Michael Hulsman, 22395 SW Chilkat Terrace, Tualatin, OR, distributed information on nuisance activities in his neighborhood, and asked for Council to allow a fence he has placed that is located in the right-of-way, and ask to leave it there. Mr. Hulsman said the fence has deterred a lot of trespassing, however he realizes that the fence may have to be removed when development occurs.

Mayor Ogden said there obviously is a problem in that area, and the easement does not provide a transportation link. He, and don't know how to make it happen, but said there has to be a way to make it happen. Lombos said could be a revocable permit, or similar, but staff can make it happen.

D. CONSENT CALENDAR

The minutes for the meetings of June 23, 2008 and July 14, 2008 were removed by Council to be amended and brought back at a later meeting. MOTION by Councilor Harris SECONDED by Councilor Barhyte to adopt the Consent Agenda as amended and read:

1. Approval of Minutes for the Meetings of September 8, 2008 and September 22, 2008
[June 23, 2008 and July 14, 2008 minutes removed from agenda]

2. Approval of Change of Ownership Liquor License Application for Tualatin Gas & Food Services
3. Resolution No. 4832-08 Authorizing Merchant Services Agreement with West Coast Merchant Services
4. Resolution No. 4833-08 Accepting Public Improvements for Construction of the Tualatin Heritage Center Phase 2 Patio Improvements
5. Resolution No. 4834-08 Accepting Public Improvements for Haulaway Storage Containers
6. Resolution No. 4835-08 Authorizing the City Manager to Negotiate and Execute a Concession Agreement for Espresso Bar and Vending Services at the Tualatin Public Library
7. Resolution No. 4836-08 Approving an Intergovernmental Agreement with Metro for the 2006 Natural Areas Bond Measure Local Share Component

MOTION CARRIED.

E. PUBLIC HEARINGS – *Legislative or Other*

1. Plan Text Amendment Rescinding Requirements for Eighty Percent Residential Minimum Built Density (PTA-08-05)

Mayor Ogden opened the public hearing.

Community Development Director Doug Rux requested the hearing be continued to October 27, 2008.

MOTION by Councilor Barhyte, SECONDED by Councilor Beikman to continue the hearing to October 27, 2008. MOTION CARRIED.

F. PUBLIC HEARINGS – *Quasi-Judicial*

1. Conditional Use Permit for Water Reservoirs and Wireless Communication Facility (WCF) at 8930 SW Norwood Road (CUP-08-04)

Mayor Ogden read language required by legislation before a comprehensive plan or land-use regulation [ORS 197.765(5) and (6)] and opened the public hearing. No bias or ex parte contact noted by Council.

Assistant Planner Colin Cortes presented the staff report and entered the entire staff report into the record. Mr. Cortes gave a brief background on the conditional use permit (CUP) request. The property is approximately 1.5 acres at 8930 SW Norwood Road. The request is whether the Council approves the City's existing water reservoirs and wireless communication facility (WCF), i.e. cell tower, in an Institutional Planning (IP) District that was annexed into the City in July 2008. A "water reservoir" and a "wireless communication facility" are conditional uses per the Tualatin Development Code. This application is brought to Council as a pro forma measure, basically to acknowledge the cell tower and water reservoirs, and co-location to occur.

Staff recommends that Council consider the staff report and supporting attachments and direct staff to prepare a resolution granting CUP-08-04.

PROPOSERS/OPPONENTS – None.

COUNCIL DISCUSSION

It was asked why a conditional use permit had to be done for this and Mr. Cortes said if the tower is being modified, in order to do that this application is required to be done.

Mayor Ogden closed the public hearing.

COUNCIL DELIBERATION

MOTION by Councilor Truax, SECONDED by Councilor Maddux to accept the staff report and supporting attachments and direct staff to prepare a resolution granting CUP-08-04. MOTION CARRIED.

G. GENERAL BUSINESS

This item was heard first under *General Business*.

2. Ordinance No. 1270-08 Renaming SW Ottawa Street, SW Warm Springs Street, SW Tonka Street, SW 119th Avenue, an Unnamed Street, Quarry Access Road, and Portions of SW Leveton Drive, SW 118th Avenue and SW 124th Avenue

MOTION by Councilor Truax, SECONDED by Councilor Harris for a first reading by title only. MOTION by Councilor Truax, SECONDED by Councilor Harris for a second reading by title only. The poll was unanimous. MOTION CARRIED.
MOTION by Councilor Truax, SECONDED by Councilor Maddux to adopt the agenda as presented. MOTION CARRIED.

1. Resolution No. 4837-08 Adopting Service Levels and Rescinding Resolution No. 4825-08

Operations Director Dan Boss and Program Coordinator Kathy Kaatz presented information on the roll cart program. Part of implementing the roll cart program is to meet recycling goals consistent with other recycling programs within Washington County and regionally. The benefits of adding the roll cart would be the material is kept dry, customer convenience, and surveys conducted by other cities have shown satisfaction in the program. The City of Portland also received satisfaction in a recent customer survey. The action asked by Council tonight was discussed in August. Ms. Kaatz gave the alternatives that Council could adopt.

It was noted a letter was sent out a few week ago from Allied regarding the proposed rate increase. The letter did not give much information about the program itself and was suggested in the future it would be helpful if more information is provided. Mr. Boss said he was surprised by the letter also. It was sent without the City's review, and staff will be working with Allied to thoroughly review any future information and apologized for how the letter was written.

Councilor Maddux said she had asked for this to be taken off the agenda at the last meeting, and has since talked to many of her neighbors regarding the proposed program and rate increase. The resounding response was not to increase at this time; it would be an additional \$25/year and she cannot support it.

Councilor Beikman said in speaking with her neighbors she did not receive a resounding no about the proposed program. By having a larger can, customers may be able to increase their recycling, which could possibly mean going to a smaller gallon garbage can, and it is an easier way to recycle. Councilor Boryska agreed with Councilor Beikman. In trying to improve our sustainable environment, recycling goes hand in hand.

It was asked about the sizes of cans that are available.

Frank Lonergan, Allied Waste, 10295 SW Ritter Road, Wilsonville, OR said there are sizes ranging from 20 gallon up to 90 gallon cans, and mostly 35 gallon cans are used in Tualatin. It was asked if it is realistic to be able to go from a 35 gallon can to a 20 gallon. Mr. Lonergan said it would mostly likely be a 65 gallon can could reduce to a 40 gallon. There is a measurable opportunity to save money, and it was suggested if the proposal is adopted, to find ways to present opportunities to customers to be able to decrease their garbage bill. A promotional could be done not only that this is in support of environmental concerns, but could also address the financial concern.

Discussion followed. The proposed \$2.00 increase would be for capital costs. It may also be possible to see a rate decrease or efficiencies with the program. Mr. Boss noted that there has actually been rate "decreases" in the past. It was asked and answered that the rate increase would put Tualatin in the middle with other communities.

MOTION by Councilor Truax, **SECONDED** by Councilor Boryska to adopt the attached resolution approving a change in solid waste and recycling service levels set forth in Schedule A, by implementing a weekly residential roll-cart recycling service. **MOTION CARRIED.** [Vote: 5-2; YES: Ogden, Beikman, Boryska, Harris, Truax; NO – Barhyte, Maddux]

Councilor Maddux made mention again of the letter sent by Allied to customers containing misleading information. Brief discussion followed. Mayor Ogden said that any further information should not necessarily be on Allied letterhead, as it is the City's responsibility to communicate to our citizens about information such as this, not Allied.

H. ITEMS REMOVED FROM CONSENT AGENDA

None.

I. EXECUTIVE SESSION

None.

J. COMMUNICATIONS FROM COUNCILORS

*Items removed from the Consent Agenda will be discussed individually at this time.
The Mayor may impose a time limit on speakers addressing these issues.*

Councilor Beikman noted a public meeting will be held by Communities Helping All Neighbors Gain Empowerment (CHANGE), a citizen group in opposition of the proposed Stars Cabaret opening. It is being held at Rivergrove Elementary School, October 22, 2008 at 7:00 p.m.

K. ADJOURNMENT

MOTION by Councilor Boryska, SECONDED by Councilor Harris to adjourn the meeting at 8:37 p.m. MOTION CARRIED.

Sherilyn Lombos, City Manager

Recording Secretary

A handwritten signature in blue ink, appearing to read "Maurice Smith", is written over a horizontal line.